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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 SAN FRANCISCO
12

13 IN RE: CATHODE RAY TUBE (CRT)
14 ANTITRUST LITIGATION

Case No. 3:07-cv-5944 SC

MDL No. 1917

15
16 **THIRD PARTY THOMAS SCHMITT'S**
OBJECTIONS AND RESPONSES TO
17 **PLAINTIFFS' SUBPOENA**
18 **COMMANDING PRODUCTION OF**
DOCUMENTS
19

20 Pursuant to Rule 45 of the Federal Rules of Civil Procedure, third-party Thomas Schmitt
21 ("Respondent"), by and through his undersigned attorneys Morgan, Lewis & Bockius LLP,
22 hereby objects and responds to the Subpoena served by plaintiff Costco Wholesale Corporation,
23 in conjunction with the Indirect Purchaser Plaintiffs, Direct Purchaser Plaintiffs, Direct Action
24 Plaintiffs, and the Attorney General of California (together, "Plaintiffs"), on May 17, 2013, as
25 follows:
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27

Respondent incorporates by reference each and every General Objection set forth below into each and every specific response. Occasionally a specific response may repeat a General Objection for emphasis or some other reason. The failure to repeat any General Objection in any specific response shall not be interpreted as a waiver of any General Objection to that response.

GENERAL OBJECTIONS

1. Respondent objects to the Subpoena and the Definitions, Instructions, and Requests contained therein to the extent that they impose obligations that exceed the scope of Respondent's obligations under the Federal Rules or the Local Rules for the Northern District of California.

2. Respondent objects to the Requests to the extent that they seek production of documents already in Plaintiffs' possession, custody, or control, or that are equally accessible to Plaintiffs as to Respondent.

3. Respondent objects to the Requests, and each request therein, to the extent they seek to impose on Respondent an obligation to investigate or discover information or materials from defendants, third parties, or sources who are equally accessible to Plaintiffs. Respondent, a non-party to this action, should not be put to the time and expense to produce such documents and information.

4. Respondent objects to the Requests to the extent they are overly broad, unduly burdensome and oppressive (including, without limitation, Requests as to which the burden and expense of locating and producing potentially responsive documents, which--if any exist--may be numerous and in numerous different locations, clearly outweighs the probative value--if any--of such documents), and beyond the proper scope of discovery. Such objections shall be made in the short form "overly broad and unduly burdensome."

5. Respondent objects to the Requests to the extent they seek production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

6. Respondent objects to the Requests to the extent they seek production of documents protected by the attorney-client privilege, work product doctrine, or any other

1 applicable privileges, doctrine, or immunity. No such privileged documents or information will
2 be produced at any time, and any inadvertent production thereof shall not be deemed a waiver of
3 any privilege with respect to such documents or information or of any work product doctrine
4 which may attach thereto.

5 7. Respondent objects to the Requests to the extent they are not set forth with
6 sufficient particularity, and/or are vague, ambiguous, duplicative, and unlimited in scope.

7 8. Respondent objects to the Requests to the extent they seek documents not
8 currently in Respondent's possession, custody, or control.

9 9. Respondent objects to the Requests to the extent they seek documents that are no
10 longer readily accessible to Respondent but might exist only in electronic archives or back-up
11 files. Respondent will not rebuild these electronic archives and back-up files in order to search
12 for documents that may be responsive to the Requests.

13 10. Respondent objects to the Requests as being overly broad and unduly burdensome
14 to the extent that they seek the production of electronically stored information not reasonably
15 accessible. Respondent agrees to meet and confer with Plaintiffs' counsel regarding requests for
16 electronically stored information, including any related costs.

17 11. Respondent objects to the Requests to the extent they seek documents and
18 information that would disclose Respondent's or a third party's respective trade secrets or other
19 confidential research, development, or confidential information protected by the Uniform Trade
20 Secrets Act, any and all rights of privacy under the United States Constitution or Article One of
21 the Constitution of the State of California, or any other applicable state constitution or law,
22 including any copyright or license, or which is otherwise prohibited from disclosure because to do
23 so would cause Respondent to violate legal or contractual obligations to any other persons or
24 entities.

25 12. Respondent objects to the Requests to the extent they attempt to impose
26 obligations on Respondent and/or seek documents beyond those required to be produced pursuant
27 to the Stipulation and Order Regarding the Production of Electronically Stored Information filed
28 in this case, Dkt. 828 (December 16, 2010) (the "ESI Protocol").

13 15. Respondent objects to the use of the terms “YOU” and “YOUR” on the ground
14 that these terms render the Requests in which they appear vague and ambiguous, overly broad,
15 unduly burdensome, oppressive, and beyond the scope of permissible discovery to the extent such
16 definitions expand the scope of inquiry beyond the Respondent himself.

16. Respondent objects to the use of the term “RELATING TO” to the extent that Plaintiffs’ definition is broader than and deviates from the commonly understood definition of this term, on the ground that it renders the Requests in which it appears vague, ambiguous, and overly broad and unduly burdensome.

17. Respondent objects to the term “DOCUMENT(S)” as used the Subpoena, to the extent this definition is broader than and deviates from the commonly understood definition of the term, on the ground that it renders the Requests in which it appears vague, ambiguous, and overly broad and unduly burdensome.

PRODUCTION REQUEST NO. 1

Any and all Documents relating to the manufacture or sale of CRTs or CRT Finished Products during the Relevant Period.

RESPONSE TO PRODUCTION REQUEST NO. 1

Respondent reasserts and incorporates each of the General Objections set forth above. Respondent objects to this Request to the extent that it is overly broad and unduly burdensome. Respondent objects to this Request to the extent that it is vague and ambiguous, compound, and improper in form. Respondent further objects to this Request to the extent it seeks production of documents which are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Respondent objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or other applicable privilege. No such privileged documents will be produced. Respondent objects to this Request to the extent it seeks confidential, proprietary, or highly sensitive information or information that is protected by the right to privacy of any third party that Respondent is obligated to safeguard. Respondent objects to this Request to the extent it contains duplicative requests, in whole or in part.

Subject to and without waiving the foregoing General and Specific Objections, Respondent responds that after a reasonable and diligent search, Respondent has not located any documents responsive to this Request.

Dated: June 21, 2013

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Michelle Park Chiu
Michelle Park Chiu
Attorneys for Third Party Thomas Schmitt